

FILED

Attachment 2 - EEOC Complaint Form

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

21 MAY 20 PM 4:43

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY Dmf  
DEPUTY CLERK

Elvis Calvin

Civil Action Number: **1:21-cv-451-LY**

v.

(Supplied by Clerk's Office)

Coca Cola Southwest Beverages, LLC

**COMPLAINT**

1. This action is brought by , Plaintiff, pursuant to the following selected jurisdiction:

**(Please select the applicable jurisdiction)**

- ☐ Title VII of the Civil Rights Act of 1964 (42 USC §§ 2000e et seq.) Employment Discrimination on the basis of race, color, sex (gender, pregnancy and sexual harassment), religion or national origin.
- ☐ The Age Discrimination in Employment Act (29 USC §§ 621 et seq.) (ADEA).
- ☒ The Americans With Disabilities Act (42 USC §§ 12102 et seq.) (ADA).
- ☐ The Equal Pay Act (29 USC § 206(d)) (EPA).
- ☐ The Rehabilitation Act of 1973 (29 USC § 791 et seq.) (Applicable to federal employees only).

2. Defendant (Coca Cola SWB, LLC) lives at, or its business is located at  
(14185 Dallas Pkwy suite #1300), (Dallas),  
(TX), (75254).

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(9600 Burnet RD.), (Austin), (TX), (78758).

- 3b. At all relevant times of claim of discrimination, Defendant employed (500+) employees. If defendant is a union, at all relevant times of claim of discrimination, Defendant had (#) members.
4. Defendant discriminated against plaintiff in the manner indicated in paragraph 8 of this complaint on or about (month) (day) (year). If incidents of discrimination occurred more than one day, please indicate the beginning and ending dates of such acts:  
. May 22 2018 - July 10 2020
5. Plaintiff filed charges against the defendant with the Equal Employment Opportunity Commission (E.E.O.C.) charging defendant with the acts of discrimination indicated in paragraph 7 of this complaint on or about (Nov) (17th) (2020). (Not applicable to federal civil service employees).
- 6a. The E.E.O.C. issued a **Notice of Right to Sue** which was received by plaintiff on (March) (3rd) (2021). (Not applicable to ADEA and EPA claims or federal civil service employees).

**VERY IMPORTANT NOTE: PLEASE ATTACH A COPY OF YOUR NOTICE OF RIGHT TO SUE AND THE ENVELOPE IN WHICH IT WAS RECEIVED TO THIS COMPLAINT.**

- 6b. Please indicate below if the E.E.O.C issued a **Determination** in your case:

☐ Yes  
☒ No

**VERY IMPORTANT NOTE: IF YOU CHECKED "YES", PLEASE ATTACH A COPY OF THE E.E.O.C.'S DETERMINATION TO THIS COMPLAINT**

7. Because of plaintiff's:

**(Please select the applicable allegation(s))**

- ☐ Race (If applicable, state race)  
☐ Color (If applicable, state color)

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Rev. Ed. October 26, 2017

- ☐ Sex (gender, pregnancy or sexual harassment) (If applicable, state sex and claim) ☐  
Religion (If applicable, state religion)

☐ National Origin (If applicable, state national origin)

☐ Age (If applicable, state date of birth)

☒ Disability (If applicable, state disability)

☒ Prior complaint of discrimination or opposition to acts of discrimination.  
(Retaliation) (If applicable, explain events of retaliation)

After using text dialogue between my supervisor and myself in an accommodation request, I was removed from my assigned route, equipment and assigned vehicle was taken away, I was forced into a lesser role as a helper, I was not informed of any policy that other employees were informed of, my supervisor signed off on or directed other employees to sign off on all policy and acknowledgements throughout my employment on behalf of myself without my knowledge or consent, I was subjected to false allegations by co-workers, I was framed for stealing by supervisors and coworkers, I was instructed to operate company vehicles while not being in compliance with company policy, i was denied the opportunity to participate in my end of year review, My supervisor gave me a fake "random" drug test. I was wiretapped by co-workers without my knowledge, I was surveilled by co-workers without my knowledge. I was given routes that were altered by the supervisor to be more difficult than others. I was denied numerous attempts to transfer. I

The defendant: (please select all that apply)

☐ failed to employ plaintiff.

☒ terminated plaintiff's employment.

☐ failed to promote plaintiff.

☒ harassed plaintiff.

☒ other (specify) Created a Hostile work environment. Denied Accommodation and transfer requests. Denied an opportunity to be made aware of company policy.

8a. State **specifically** the circumstances under which defendant, its agent, or employees discriminated against plaintiff **PERSONALLY**:

**VERY IMPORTANT NOTE: INCLUDE SPECIFIC DATES, SPECIFIC EVENTS, AND ANY SPECIFIC COMMENTS MADE BY DEFENDANT PERTAINING TO THE DISCRIMINATION CLAIM ALLEGED ABOVE.**

1. May 22nd, first day, I was not allowed to participate in any new hire company

policy or acknowledgement opportunities.

2. I Was never given an opportunity to be informed of any accommodation process upon hiring or any time thereafter
3. I stated on my application that I had a disability (asthma), but was never engaged in any interactive process to discuss any needed accommodations.
4. (Late June/early July 2018)I was removed from my position and placed into another position despite my opposition due to my disability
5. The removal of myself from that position was to have another driver placed into that position who was outside my protected class.
6. I requested not to be placed into the position because it would be detrimental to my health
7. Once placed into that position I began to develop breathing issues that began to affect my health
8. I communicated these issues with my supervisor but was never informed of, or engaged in any accommodation process.
9. (July 29th)I was hospitalized due to my disability for 2 weeks initially in the ICU for 3 days.
10. I suffered for a prolonged period of time because I was uninsured and could not afford to go to the hospital.
11. (Dec. 2018)I learned on my own while out for 3 months due to injury of the ADA and accommodation process and requested an accommodation for a change to workplace policy and benefits but was denied
12. (Feb 5th 2019) When I returned from injury, I was taken off of my route which was given to another employee by my supervisor because I had used text messages between my supervisor and myself in my accommodation request
13. I was demoted to a helping position forcing me to work less hours making less money.
14. (Early March 2019)I was later placed on a route without my consent after I complained about being taken off of my original route.
15. My assigned truck and trailer were given to other drivers after my first accommodation request.
16. I started to receive unfair routes due to my supervisor controlling who and what routes drivers would receive on a day to day basis.
17. The routes I was given had information altered to appear on paper to be equal but in actuality were much more difficult.
18. I began to be harassed by drivers because with my routes being made more difficult by my supervisor, I would miss stops and my supervisor would then add those stops to other drivers making their workload more difficult.
19. My routes were designed to be more difficult in order to make me work longer hours, resulting in longer commute times because of traffic, this resulting in a later arrival time.
20. I was written up for late arrival but expressed my concern that I wasn't able to administer proper medication for my asthmatic condition at times.
21. I was threatened with an insubordination write up and further disciplinary action if I did not sign the write up for time and attendance.
22. I informed my supervisor that I was out with an injury while that information

was given to employees.

23. He briefly explained the policy, then had me sign on a sheet of paper the policy acknowledgement.
24. He then continued to make my route more difficult despite my requests for changes to the route.
25. I was then written up for time and attendance again but this time verbally requested an accommodation to the time and attendance policy but he laughed and stated that he would look into what i was talking about but he doubted that that would save me.
26. I was never engaged in any discussions other than one morning in passing. Several weeks later, He asked if I could make it there by a certain time in which I replied I can try, but it might be best to find another position.
27. I began to have other drivers complain and harass me because other drivers had been terminated for time and attendance but I wasn't.

29. I continued to receive unfair and unrealistic routes causing me to not be able to administer breathing treatments in the evening and morning
30. (October 2019) Adam asked if I would be willing to come into work on a saturday and I agreed. I was not placed onto my usual truck but onto other drivers. I found out months later that this was done because there was a plan to have the truck I would be driving set up with a hidden camera with audio recording to capture me breaking company rules trying to prove that I didn't follow other rules so an accommodation for time and attendance was unwarranted. I overheard drivers laughing and discussing the private conversations and actions that had been captured while they were unaware that I was within listening distance of their conversation.
31. Even though I had asked my supervisor to keep my accommodation request private, He did not.
32. (Oct 18th 2019) I emailed the distribution manager and expressed that I was being targeted by other drivers who altered my truck's operation and also tampered with my truck's state required documentation.
33. (Oct 25th) I applied for a lesser paying position that i held in the past and was qualified for but never received a call back for an interview.
34. (Oct 26th 2019) I applied for a lesser paying position that i held in the past and was qualified for but never received a call back for an interview.
35. During this time period I expressed to Adam that I would prefer to be removed from this situation by transferring to be able to have a more manageable situation for my disability, but I was ignored.
36. (Nov 4th 2019) I applied for a lesser paying position that i held in the past and was qualified for but never received a call back for an interview.
37. (Nov 9th 2019) I applied for a lesser paying position that i held in the past and was qualified for but never received a call back for an interview.
38. (Nov 10th 2019) I contacted the recruiter for the open positions and explained my need to be placed into a more manageable position and whether or not I

- had made a mistake in the application process. I never got a reply.
39. Adam received email alerts whenever I had applied to an open position
  40. (Nov 30th) I emailed Jim Taylor, Distribution Manager, that there was a plot carried out by several employees spanning several departments to make it appear that I had stolen product. I expressed my concern for my treatment and the fact that I would prefer a position elsewhere in the company
  41. (Dec 13 2019) I notify Adam that I was loaded incorrectly but he never responded. I forwarded Jim Taylor the information
  42. (Dec 31 2019) I applied for a lesser paying position that i held in the past and was qualified for but never received a call back for an interview.
  43. (Mar 1 2020) As the Covid 19 pandemic began to take effect, I applied for a lesser paying position that i held in the past and was qualified for but never received a call back for an interview.
  44. I texted Adam and expressed my concern for my health due to the pandemic. He downplayed the issue.
  45. (Mid April 2020) Adam calls me into his office to conduct End of Year Reviews. He pulls out my review and fans through the pages and tells me I rated you as Meets and I look forward to working with you in the future. I ask him to allow me to have a copy of the Review and he informs me that I have to go online in order to sign off on it. This was the first time since I had been employed at CCSWB that I was instructed to do anything on a computer.
  46. I asked him if he could provide me access by reinstating my profile that I hadn't used in well over 3 months. He said he would.
  47. I informed him in the days after that I still hadn't been able to access my EOY review so I could see it and sign off on it.
  48. He Informed me that I had until the end of April and I shouldn't be that concerned about it.
  49. On or about the day of April 30th, I informed him that I really needed to see my review so that I could sign and approve it. When I arrived at work there was a time authorization form filled out by Adam placed in my box. It was incorrect so I filled a separate one out and sent it to him with the correct times. He then summoned me to his office and informed me that I needed to go take a random drug test. This random drug test was a blank form with a second sheet claiming it was a random drug test.
  50. After passing the drug test, I continued to be harassed, made fun of and humiliated by drivers and supervisors who by now had gossiped about me and the contents of the illegal recordings.
  51. Throughout this time, from about oct 2019 until july 10th 2020, cameras were installed in coke vehicles that would alert supervisors to unsafe driving practices, during this time I never had any unsafe driving alerts, and due to the fact that drivers were convinced that I was not being treated as they were, the drivers who had received driving alerts requested to supervisors that I be placed in the trucks that they were driving and placed in the exact same scenario to see if I would have the same driving alert. This would cause me to work unfair hours and routes against my will.
  52. (June 1st 2020) I applied for a lesser paying position that i held in the past and



- was qualified for but never received a call back for an interview.
53. (June 4th 2020) After realizing that CCSWB and direct supervision along with co-workers had zero concern about my safety and well being, along with the covid 19 pandemic escalating, I felt it necessary to put in my resignation notice for july 10th. In my resignation notice I expressed my need to stay employed with the company not only because I needed a job but also insurance but I could not allow myself to be put in an unattainable position by staying in my current role.
  54. (June 7th 2020) I applied for a lesser paying position that i held in the past and was qualified for but never received a call back for an interview.
  55. (June 14th) I applied for a lesser paying position that i held in the past and was qualified for but never received a call back for an interview.
  56. (May/June 2020) CCSWB switches to a new time and attendance policy. I was never informed about this policy or given a chance to engage in any accommodation processes.
  57. After learning that we no longer used TCAF to correct time, I continued to ask Adam if there was anything I needed to be informed about as far as any new processes. He continues to say no.
  58. (June 24th) I called HR to ask why I havent had the opportunity to see or sign my review. The case intake rep seemed unsure why I didn't know what success factors were and proceeded to tell me that there was a back and forth process that should have taken place between me and my supervisor. I informed him that the process had never taken place and I was completely unaware of anything called success factors. He then told me about a new application process and emailed the recruiter who forwarded me a link to the success factors page to apply for a position. He then gives me the email to Beth Lynch, HR director for our area.
  59. June(25th) I applied for a lesser paying position that i held in the past and was qualified for but never received a call back for an interview.
  60. I emailed Beth Lynch and we set up a phone conversation in which we discussed other topics surrounding my employment there and my desire to be removed. I ask if being a driver at the San Antonio facility would be an option and she informed me that I would need to talk to the Distribution manager at that facility but that she would see to it that I at least got an interview
  61. (June 27th) I work in San Antonio and expressed my desire to be removed from a bad situation to the distribution manager. Later that evening as I was finishing a 13 hour route, I returned to the facility and no one was there to let me back in the gate. The supervisor on duty completely forgot I came out of town to help.
  62. (June 29th) I inform beth that a merchandising position would be best for my situation
  63. (July 1st) Adam Calls me into his office and shows me for the first time what success factors are. An app we were supposed to download on our phones where we did training and acknowledgements.
  64. I text Beth and inform her that this was the first time since I had been employed there that I had been shown anything on a computer.



65. (July 3rd) Adam calls me into his office and attempts to have me sign off on all CCSWB policies without allowing me to review any information about them. He stated to me that Admin screwed up when I was hired.
66. (July 10th) I have a phone Exit interview with Jim Taylor. I Inform him in this meeting that I have been lied to and deceived for the whole time while being employed there. That I had never once been notified of any policies or acknowledgements including accommodation request opportunities.

8b. List any witnesses who would testify for plaintiff to support plaintiff's allegations and the substance of their testimony: Andrea Mitchell, Anthony Calvin, Billy Kerr, Maureen Calvin,

Will testify that the allegations and basis of my disability discrimination suit are true and the affects from the treatment I received made me suicidal and that I am still affected by these actions til this day

8c. List any documentation that would support plaintiff's allegations and explain what the documents will prove:

1. Daily Routes: proof of unfair routes
2. Internal Email: shows upper management's desire to keep me in the driver role; will show the politicization of my work ethic between managers. Will show numerous compliments by satisfied customers.
3. Text Dialogue: will show the communication between Myself and Adam State. Also, shows communication with other employees.
4. GPS: will show drivers having driving alerts and then I get placed into same scenario
5. Complaint logs: will show the numerous complaints made by drivers
6. MER reports: Will show my ability to outperform almost all drivers in similar position
7. Route processing data: will show the alteration by distribution supervisors of route information to adversely impact my delivery numbers leading to a lower performance review
8. Recruitment applications: Will show my desire to stay employed but in a more manageable situation for myself

9. The above acts or omissions set forth in paragraphs 7 and 8 are:

- ☐ still being committed by the defendant.  
☒ no longer being committed by the defendant.

10. Plaintiff should attach to this complaint a copy of the charge filed with the Equal Employment Opportunity Commission. This charge is submitted as a brief statement of the facts supporting this complaint.

WHEREFORE, plaintiff prays that the Court grant the following relief to the

plaintiff: ☐ Defendant be directed to employ plaintiff.

☐ Defendant be directed to re-employ plaintiff.

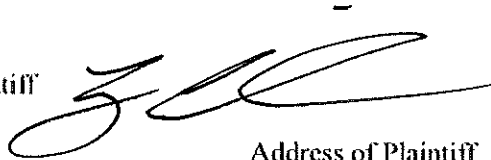
☐ Defendant be directed to promote plaintiff.

☒ Defendant be directed to Pay 1,750,000.00 for pain and suffering, the loss of enjoyment of life, loss of past and future benefits, lost wages and future wages, loss of career advancement, loss of reputation, loss of time. Plus punitive damages  
and that the Court grant such other relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Date 5/20/2020

Signature of Plaintiff



1003 Hackberry

Address of Plaintiff

San Marcos TX, 78666

City State ZipCode

Telephone Number(s)

5126184743